

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

RUSSELL ZINTER; JACK MILLER;	§	
BRIAN HOWD; JAMES A. MEAD;	§	
JOSEPH BRANDON PIERCE; MARK BROWN;	§	
DAVID BAILEY; JUAN GONZALES JR.;	§	
KEVIN EGAN; JONATHON GREEN;	§	
JAMES SPRINGER, GREG GARDINER,	§	
SELINA HERRERA, JASON GREEN AND	§	
THERESA RICHARD	§	
	§	
Plaintiffs,	§	
	§	
VS.	§	CIVIL ACTION NO. 5:18-CV-0680-JP
	§	
CHIEF JOSEPH SALVAGGIO;	§	
LIEUTENANT DAVID ANDERSON;	§	
DEPUTY JANE DOE GOLDMAN;	§	
OFFICER JOHNNY VASQUEZ;	§	
CPL CHAD MANDRY; SERGEANT JOHN DOE;	§	
OFFICER JIMMIE WELLS; CPL. LOUIS FARIAS,	§	
BADGE 534; OFFICER BRANDON EVANS,	§	
BADGE 556; OFFICER UZIEL HERNANDEZ;	§	
JOHN DOE TASER 1; JOHN DOE TASER 2 AND	§	
THE CITY OF LEON VALLEY, A POLITICAL	§	
SUBDIVISION OF THE STATE OF TEXAS	§	
	§	
Defendants.	§	
	§	

**DEFENDANT CHIEF SALVAGGIO, LT. ANDERSON AND OFFICERS VASQUEZ,
MANDRY, WELLS, FARIAS, EVANS, HERNANDEZ, YARBOROUGH, BRETON, AZAR,
URDIALES, KING, CASTRO, TACQUARD, AND RIVERA'S
REPLY IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE ROYCE C. LAMBERTH:

NOW COMES CITY OF LEON VALLEY CHIEF OF POLICE JOSEPH SALVAGGIO,
LIEUTENANT DAVID ANDERSON, OFFICER JOHNNY VASQUEZ, CORPORAL CHAD
MANDRY, DETECTIVE JIMMIE WELLS, CORPORAL LOUIS FARIAS, OFFICER BRANDON
EVANS, OFFICER UZIEL HERNANDEZ, OFFICER CLARENCE YARBROUGH, OFFICER

JORGE BRETON, OFFICER JOANN AZAR, SERGEANT JOEL URDIALES, OFFICER ALEX KING, OFFICER BENJAMIN CASTRO, OFFICER MIKE TACQUARD, and OFFICER ERIKA RIVERA, Individually, Defendants in the above entitled and numbered cause, and pursuant to Rule 56, FEDERAL RULES OF CIVIL PROCEDURE, files this their Reply In Support of their Motion for Summary Judgment (Dkt. 149) against Plaintiffs' claims and in support thereof would respectfully show unto the Court the following:

I.

Defendants **CHIEF SALVAGGIO, LT. ANDERSON, OFFICER VASQUEZ, CORPORAL MANDRY, OFFICER WELLS, CORPORAL FARIAS, OFFICER EVANS, OFFICER HERNANDEZ, OFFICER YARBROUGH, OFFICER BRETON, OFFICER AZAR, SGT. URDIALES, OFFICER KING, OFFICER CASTRO, OFFICER TACQUARD, and OFFICER RIVERA** assert unto the Court that Plaintiff has failed to put forth any evidence as to why the Defendant Officers are not entitled to the protective shroud of qualified immunity. *Mullinex v. Luna*, 577 U.S. 7, 12 (2015).

II.

Defendants **CHIEF SALVAGGIO, LT. ANDERSON, OFFICER VASQUEZ, CORPORAL MANDRY, OFFICER WELLS, CORPORAL FARIAS, OFFICER EVANS, OFFICER HERNANDEZ, OFFICER YARBROUGH, OFFICER BRETON, OFFICER AZAR, SGT. URDIALES, OFFICER KING, OFFICER CASTRO, OFFICER TACQUARD, and OFFICER RIVERA** assert that the recent case of *Buehler v. Dear*, ____ F.4th ____ 2022 WL 619584 (5TH Cir. March 3, 2022), is instructive to the case at bar. The *Buehler* case is analogous to the case at bar in analyzing the line between filming the police which is legal and *hindering* the police which is not. The Fifth Circuit affirmed the trial court's granting of summary judgment to officers on the First Amendment claim and reversed the trial court's

denial of qualified immunity on plaintiff's claim for excessive force. Plaintiff Buehler who was a known agitator as (similar to the agitators in this case) interfered with the police officer's duties. The Fifth Circuit held that the officers were entitled to qualified immunity to Plaintiff Buehler's First Amendment claims, as well as to his claim of excessive force under the Fourth Amendment. Defendant Officers in the case at bar assert their entitlement to the protective shroud of qualified immunity since there was no constitutional violation and their actions were objectively reasonable under established law at the time of the incident in question, as a matter of law. *Mullinex v. Luna*, 577 U.S. 7, 12 (2015); *Buehler v. Dear*, ____ F.4th ____ 2022 WL 619584 (5TH Cir. March 3, 2022).

WHEREFORE, PREMISES CONSIDERED Defendants **CHIEF SALVAGGIO, LT. ANDERSON, OFFICER VASQUEZ, CORPORAL MANDRY, OFFICER WELLS, CORPORAL FARIAS, OFFICER EVANS, OFFICER HERNANDEZ, OFFICER YARBROUGH, OFFICER BRETON, OFFICER AZAR, SGT. URDIALES, OFFICER KING, OFFICER CASTRO, OFFICER TACQUARD, and OFFICER RIVERA** pray that their Motion for Summary Judgment will be in all things granted, and for such other and further relief as they may show themselves justly entitled.

Respectfully submitted,

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CASTRO, OFFICER MIKE TAQUARD, AND OFFICER
ERIKA RIVERA**

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of March, 2022, I electronically filed the foregoing Defendants Chief Salvaggio, et al's Reply in Support of its Motion for Summary Judgment with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF Participants and via certified mail to the non-CM/ECF pro ses:

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